

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of

CASE CLOSURES UNDER
ENFORCEMENT PRIORITY SYSTEM

SENSITIVE

GENERAL COUNSEL'S REPORT

I. INTRODUCTION

The cases listed below have been evaluated under the Enforcement Priority System ("EPS") and identified as either low priority, stale, subject to the media exemption, or cases previously reviewed by the ADR Office. This report recommends that the Commission no longer pursue the cases cited in section II for the reasons discussed below.

II. CASES RECOMMENDED FOR CLOSURE

**A. Cases Not Warranting Further Action Relative to Other Cases
Pending Before the Commission**

EPS was created to identify pending cases that, due to the length of their pendency in inactive status or the lower priority of the issues raised in the matters relative to others presently pending before the Commission, do not warrant further expenditures of resources. Central Enforcement Docket ("CED") evaluates each incoming matter using Commission-approved criteria that result in a numerical rating for each case.

2016-004-10-EE

1 We have identified six cases that do not warrant further action relative to other
2 pending matters. This Office recommends that all six cases be closed.¹ Attachment 1 to this
3 report contains a factual summary of each case recommended for closure, the case EPS
4 rating, and the factors leading to the assignment of a low priority.

5 **B. Stale Cases**

6 Effective enforcement relies upon the timely pursuit of complaints and referrals to
7 ensure compliance with the law. Investigations concerning activity more remote in time
8 usually require a greater commitment of resources primarily because the evidence of such
9 activity becomes more difficult to develop as it ages. Focusing investigative efforts on more
10 recent and more significant activity also has a more positive effect on the electoral process
11 and the regulated community. EPS provides us with the means to identify those cases that,
12 though earning a higher numerical rating, remain unassigned for a significant period due to a
13 lack of staff resources for an effective investigation. The utility of commencing an
14 investigation declines as these types of cases age, until they reach a point when activation of
15 such cases would not be an efficient use of the Commission's resources.

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18 We have identified one case that has remained on the Central Enforcement Docket for
19 a sufficient period of time to render it stale. This Office recommends that it be closed.²

¹ The cases recommended for closure are: P-MUR 409 (*Boone National Bank*); MUR 5273 (*Rocky Flash for U.S. Congress*); MUR 5282 (*Meehan for Congress*); MUR 5302 (*Friends of Irvin*);
and MUR 5313 (*MI Democratic State Cntrl Cmte*). The ADR Office previously reviewed MURs 5273, 5282, 5302, and 5313 for potential inclusion in the ADR program, but decided to return them to this Office.

² The case recommended for closure is MUR 5252 (*Taxpayers for Better Government*).

Attachment 2 to this report contains a summary and the EPS rating for the stale case recommended for closure.

C. Cases Returned to Enforcement

The ADR Office previously reviewed cases for potential inclusion in the ADR program, but decided to return them to this Office prior to the initiation of the new ADR procedures for recommended case closures.³ Attachment 3 to this report contains a summary and the EPS rating

III. RECOMMENDATIONS

OGC recommends that the Commission exercise its prosecutorial discretion and close the cases listed below effective two weeks from the date the Commission votes on the recommendations. Closing these cases as of this date will allow CED and the Legal Review Team the necessary time to prepare closing letters and case files for the public record.

³ The two cases recommended for closure are MUR 5286 (*Porter for Congress*)

Take no action, close the file effective two weeks from the date of the Commission
vote, and approve the appropriate letters in:

1. P-MUR 409
2. MUR 5252
- 3.
4. MUR 5273
5. MUR 5282
6. MUR 5286
- 7.
8. MUR 5302
- 9.
10. MUR 5313

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7/29/03
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5 **MUR 5302**
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7 **Complainant:** The Honorable Bennie Thompson
8

9 **Respondents:** Friends of George E. Irvin, Sr.
10 Gerald P. Collier, Treasurer
11 Keith Mitchell
12

13 **Allegations:** The Honorable Bennie Thompson alleged that George Irvin's campaign
14 committee accepted an excessive contribution from an individual, Keith Mitchell, and
15 failed to disclose payments for rent. Mr. Thompson surmises that Mr. Mitchell made an
16 excessive contribution because he made a \$1,000 contribution to Irvin's campaign
17 committee and paid for advertisements that appeared in a dinner program sponsored by
18 the Southern Christian Leadership Conference and on a billboard.
19

20 **Responses:** Friends of George E. Irvin, Sr. responded that the \$1,000 contribution
21 referred to in the complaint was reported incorrectly. It should have been reported as
22 being received from two individuals. The contribution was received initially without a
23 "designation of donor," but donor information was later received that confirmed that the
24 contribution should have been reported as coming from two partners, Brook K. Mitchell,
25 Jr. and Kevin M. Mitchell. The committee corrected this error on September 4, 2002.
26 Also, the committee did not become aware of the billboard advertisement until September
27 4, 2002. The respondent asserted that Mr. & Mrs. Brook K. Mitchell, Sr. purchased the
28 billboard at a cost to each spouse of \$250.00. The rent payments at issue were properly
29 disclosed on Schedule B of the committee's reports of Receipts and Disbursements.
30

31 Keith Mitchell did not respond.
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33 This case was temporarily transferred to the ADR Office on December 6, 2002,
34 and returned on December 31, 2002, as inappropriate for ADR.
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36 This matter is less significant relative to other matters pending before the
37 Commission.
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